

Translation

## PATENT COOPERATION TREATY

PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference<br>PC 03 560 B                                       | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |  |
| International application No.<br>PCT/EP2003/014388   | International filing date (day/month/year)<br>17 December 2003 (17.12.2003)  | Priority date (day/month/year)<br>15 March 2003 (15.03.2003) |
| International Patent Classification (IPC) or national classification and IPC<br>F16K 15/14 |  |  |
| Applicant<br>NEOPERL GMBH  |  |  |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 11 sheets.

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

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|--|--|
| Date of submission of the demand<br>21 April 2004 (21.04.2004) | Date of completion of this report<br>04 July 2005 (04.07.2005) |
| Name and mailing address of the IPEA/EP                        | Authorized officer   |
| Facsimile No.  | Telephone No.  |

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/014388

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

the international application as originally filed  
 the description:

pages 5-13, as originally filed  
 pages \_\_\_\_\_, filed with the demand

pages 1-4, 4a, 4b, filed with the letter of 20 August 2004 (20.08.2004)

the claims:

pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19)

pages \_\_\_\_\_, filed with the demand  
 pages 1-21, filed with the letter of 20 August 2004 (20.08.2004)

the drawings:

pages 1/4-4/4, as originally filed  
 pages \_\_\_\_\_, filed with the demand

pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_, filed with the demand

the sequence listing part of the description:

pages \_\_\_\_\_, as originally filed

pages \_\_\_\_\_, filed with the demand

pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
 the language of publication of the international application (under Rule 48.3(b)).  
 the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

contained in the international application in written form.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority in written form.  
 furnished subsequently to this Authority in computer readable form.

The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4.  The amendments have resulted in the cancellation of:

the description, pages \_\_\_\_\_  
 the claims, Nos. \_\_\_\_\_  
 the drawings, sheets/fig. \_\_\_\_\_

5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

|                               |        |          |
|-------------------------------|--------|----------|
| Novelty (N)                   | Claims | YES      |
|                               | Claims | 1-21 NO  |
| Inventive step (IS)           | Claims | YES      |
|                               | Claims | 1-21 NO  |
| Industrial applicability (IA) | Claims | 1-21 YES |
|                               | Claims | NO       |

## 2. Citations and explanations

## Independent claim 1

1. The subject matter of claim 1 of the present application cannot be considered novel (PCT Article 33(2)). The reasons are:

1.1 The following features of claim 1 are known from DE 1154982 (D1), which represents the closest prior art:

Fixture with a housing (7, 8) that can be inserted in a gas or fluid line, with an annular lip-shaped part 1 arranged in the interior of the housing, said lip-shaped part being supported with its annular body (1') in the interior of the housing, said lip-shaped part being provided in the area of an inflow channel 21 and having at least a lip 4 that cooperates with a housing wall 14 lying opposite and that is displaceable by the fluid, wherein the fixture is designed as a flow regulator, the lip-shaped part 1 of which has a regulating lip 4 at least designed as a throttling or regulating body and with the free lip end 5 thereof oriented towards the adjacent

housing wall 14, which regulating lip 4 defines a pressure-dependent control opening between itself and the adjacent housing wall 14.

(D1, column 3, line 26 to column 6, line 20 and figures 1-10)

D1 does not state explicitly that the fixture is designed as a flow regulator. However, the fixture according to the application does not appear to contain any additional design features not present in the fixture according to D1 that could exert the function of a flow regulator.

The subject matter of claim 1 is therefore not novel (PCT Article 33(2)).

1.2 Further, the features of claim 1 are likewise known from GB 875034 (D2) (page 1, line 63 to page 3, line 67 and figures 1-3); FR 2426199 (D3) (page 2, line 40 to page 3, line 21 and figures 1 and 3); US 2621889 (D4) (column 2, line 40 to column 7, line 35 and figures 1 to 7); DE 1009871 (D5) (column 1, line 37 to column 3, line 9 and figures 1 to 3); FR 1389947 (D6) (the entire document); DE 938888 (D7) (page 2, lines 78 to 111, and figures 1 to 4); DE 946760 (D8) (page 2, lines 35 to 64, and figures 1 to 4); DE 1500206 (D9) (page 2, line 16 to page 3, line 23 and figures 1 and 2); and DE 3706737 (D10) (column 4, line 55 to column 8, line 54 and figures 1 to 4).

#### Dependent Claims 2-21

3. Dependent claims 2-21 do not contain any features which, in combination with the features of any claim

to which they refer back, meet the PCT requirements for inventive step. The reasons are:

the features listed in these dependent claims pertain only to simple and obvious steps which a person skilled in the art routinely makes on the basis of familiar considerations and likewise cannot substantiate inventive step. Some of the additional features of these dependent claims are, as described below, known from the citations in the search report.

- 3.1. The additional features of dependent claims 2 and 3 are known from D1 (figures 3-10), D3 (figure 1) and D4 (figures 1-3).
- 3.2. The additional features of dependent claims 4, 7, 8, 10 to 16 and 18 to 21 are known from D1 (column 3, lines 26-42, and figures 3-10).
- 3.3. The additional features of dependent claims 5, 6 and 17 are known from D2 (figures 1-3).
- 3.4. The additional features of dependent claim 9 are known from D3 (figures 1 and 2).